

CHAPTER 68

An act to amend Sections 1, 5, and 7 of Chapter 489 of the Statutes of 2001, relating to lands granted in trust to the City and County of San Francisco.

[Approved by Governor July 15, 2003. Filed with
Secretary of State July 15, 2003.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of Chapter 489 of the Statutes of 2001 is amended to read:

Sec. 1. For purposes of this chapter, the following terms have the following meanings:

(a) “BCDC” means the San Francisco Bay Conservation and Development Commission established pursuant to Section 66620 of the Government Code.

(b) “Bay jurisdiction” means the jurisdiction, powers, and duties of BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code within the area defined in subdivision (a) of Section 66610 of the Government Code.

(c) “Bay Plan” means the San Francisco Bay Plan as adopted and administered by BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, including all amendments thereto.

(d) “Boundary of the Port of San Francisco” means that line defining the boundary of “Parcel A” in the description of the lands transferred in trust to the City and County of San Francisco pursuant to Chapter 1333 of the Statutes of 1968, recorded on May 14, 1976, in Book C169, pages 573 to 664, inclusive, in the City and County of San Francisco Recorder’s Office.

(e) “Brannan Street Wharf” means a major San Francisco waterfront park in the area of Piers 34 and 36, as identified in the Special Area Plan.

(f) “Burton Act” means Chapter 1333 of the Statutes of 1968, as amended.

(g) “Burton Act trust” means the statutory trust imposed by the Burton Act (Chapter 1333 of the Statutes of 1968, as amended), pursuant to which the state conveyed to the City and County of San Francisco, in trust, by transfer agreement, and subject to certain terms, conditions, and reservations, the state’s interest in certain tide and submerged lands.

(h) “City” means the City and County of San Francisco.

(i) “McAteer–Petris Act” means Title 7.2 (commencing with Section 66000) of the Government Code.

(j) “Public trust” or “trust” means the public trust for commerce, navigation, and fisheries.

(k) “Port” means the City and County of San Francisco acting by and through the San Francisco Port Commission.

(l) “San Francisco Bay” means those areas defined in Section 66610 of the Government Code.

(m) “San Francisco waterfront” means those portions of the area transferred to the port pursuant to the Burton Act that also lie within the area defined in subdivisions (a) and (b) of Section 66610 of the Government Code.

(n) “Seawall Lot 330” means that parcel of property located in San Francisco identified on that certain map entitled SUR 790, and shown on Page 318 of the City and County of San Francisco 100 Scale Ownership Maps, which is on file with the city’s Bureau of Street Use and Mapping.

(o) “Shoreline band jurisdiction” means the jurisdiction, powers, and duties of BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code to regulate uses within the area defined in subdivision (b) of Section 66610 of the Government Code to ensure, in part, maximum feasible public access, as prescribed in Section 66632.4 of the Government Code.

(p) “Special Area Plan” means the San Francisco Waterfront Special Area Plan, dated July 20, 2000, adopted by BCDC, as amended from time to time.

(q) “Street” means those lands located within the South Beach/China Basin Planning area of the San Francisco waterfront at Seawall Lot 330, and also lying within Parcel A of those lands transferred to the City and County of San Francisco pursuant to the Burton Act, as recorded May 14, 1969, in Book C 169 at Pages 573 to 664, inclusive, in the San Francisco Recorder’s office, as more particularly described as that portion of Main Street, located between Bryant Street and the Embarcadero, vacated per Ordinance 14-93 on January 11, 1993, on file with the San Francisco Bureau of Street Use and Mapping, in Book 10, Page 94. All streets and street lines described in the preceding sentence are in accordance with that certain map entitled SUR 790, and shown on Page 318 of the City and County of San Francisco 100 Scale Ownership Maps, on file with the City’s Bureau of Street Use and Mapping.

(r) “Waterfront Land Use Plan” means the Waterfront Land Use Plan, including the Waterfront Design and Access Element, adopted by the port pursuant to Resolution No. 97-50, as amended from time to time.

SEC. 2. Section 5 of Chapter 489 of the Statutes of 2001 is amended to read:

Sec. 5. The Legislature, in the exercise of its retained power as trustee of the public trust, and in view of the unique circumstances existing at Pier 30-32 on the San Francisco waterfront and the considerable statewide public benefit and promotion of maritime transportation that will be brought about by the construction of a new passenger cruise ship terminal, improvements to berthing facilities for waterborne transit, a lagoon, improved public access and commercial public trust uses on this site, hereby authorizes the Port to approve a cruise ship terminal development on the San Francisco waterfront at Pier 30-32, which would include general office use and general retail use, if all of the following conditions are met:

(a) The development includes a modern two-berth cruise ship terminal.

(b) The development includes a public access component that meets the requirements of the Special Area Plan and the San Francisco Bay

Plan as interpreted by BCDC and that also offers expanded bay views and public access.

(c) Prior to submitting a major permit application to BCDC for the cruise ship terminal development, the Port, after review by or on behalf of BCDC, approves the final design concept for the Brannan Street Wharf.

(d) Prior to the issuance of a BCDC permit for the cruise ship terminal development, the Port demonstrates, to the satisfaction of BCDC and the Attorney General's office, that it has irrevocably encumbered all of the funds deemed necessary for the completion of the Brannan Street Wharf and has placed the funds in a segregated account guaranteed to be available to be drawn upon for the construction of the Brannan Street Wharf, and the Port and BCDC enter into an enforceable agreement that provides for the Port to fund, directly or through grant funding, or both, design, and construct the Brannan Street Wharf consistent with the following timetable:

(1) The Port shall complete preliminary engineering drawings for the Brannan Street Wharf and prepare and submit to BCDC a financing plan approved by the Port indicating funding sources and estimated construction costs at the time the construction of the cruise ship terminal development commences.

(2) The Port shall complete Phase 1, the northern portion of the Brannan Street Wharf (in the area of Pier 34), as described in the Special Area Plan contemporaneously with the construction of the cruise terminal development.

(3) The Port shall remove Pier 36 and complete the Brannan Street Wharf no later than five years after commencement of construction of the cruise ship terminal development.

(e) The amount of office space in the development does not exceed 300,000 leasable square feet, all of which shall be above the ground level. This office space shall also be designed to contribute to a development design that includes public spaces and promotes visual and public access. An additional 25,000 leasable square feet of space in the cruise ship terminal building may be used for general office use until the earlier of either of the following:

(1) Fourteen years from the first date of occupancy.

(2) When home berthing ships above 5,000 passenger berth capacity call for 15 days per year for two consecutive years.

(f) The development includes a marketing program designed to maximize the amount of general office space occupied by trust-related tenants over the life of the development.

(g) The cruise ship terminal development, if approved by BCDC, complies with the requirements set forth in this subdivision. For purposes of this subdivision only, "trust retail" means visitor serving

public trust retail and restaurant use. “Nontrust retail” means other retail and theatre uses. The amount of trust retail leasable space shall be equal to or greater than the nontrust retail leasable space. The amount of trust retail leasable space, nontrust retail leasable space, and visitor serving trust use converted from trust or nontrust retail, as approved by BCDC, shall be at least 40 percent of the total amount of office leasable space.

SEC. 3. Section 7 of Chapter 489 of the Statutes of 2001 is amended to read:

Sec. 7. Notwithstanding the Special Area Plan and the Bay Plan requirement for findings of consistency with the public trust doctrine and the Burton Act trust, BCDC is authorized to approve the cruise ship terminal development as provided in this act. Except as provided in Section 14 of this act, nothing in this act is intended to limit the discretion of BCDC to approve or deny permits for the projects described in this act in a manner consistent with the McAteer-Petris Act, the Bay Plan, the Special Area Plan, and this act, or to limit the discretion of BCDC to enforce permits issued for the projects described in this act.